

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/778,687
Inventor(s) : Mark James Kline et al.
Filed : February 7, 2001
Art Unit : 3761
Examiner : Catherine L. Anderson
Docket No. : 8415
Confirmation No. : 5337
Customer No. : 27752
Title : ACTIVE CHANGE AIDS FOR EXTERNAL ARTICLES

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Reply Brief is filed pursuant to the appeal from a final Office Action mailed on April 19, 2007. A timely Notice of Appeal was filed on June 18, 2007 and a timely Appeal Brief was filed on June 22, 2007. An Amended Appeal Brief was timely filed on July 24, 2007 in response to a Notification of Non-Compliant Appeal Brief.

This Reply Brief is being filed in response to the Examiner's Answer mailed on December 10, 2007, making this Reply Brief due on or before Monday, February 11, 2008, being that February 10, 2008 falls on a Sunday.

The Examiner's Answer of December 10, 2007 contains a new ground of rejection set forth in section (9) therein. In response thereto, this Reply Brief is being filed under 37 C.F.R. § 41.41 to request that the appeal be maintained. As such, this Reply Brief addresses the new ground of rejection as set forth in 37 C.F.R. § 41.42(c)(1)(vii) and follows the format suggested by MPEP § 1207.03(III)(B) so as to be in compliance with other requirements of 37 C.F.R. § 41.37(c).

Appl. No. 09/778,687

Docket No. 8415

Reply Brief dated February 8, 2008

Reply to Examiner's Answer mailed on December 10, 2007

Customer No. 27752

STATUS OF CLAIMS

Claims 19 and 21-25 are rejected, and claims 1-18, 20, and 26-36 are cancelled.

Claims 19 and 21-25 are appealed.

Appl. No. 09/778,687

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Customer No. 27752

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 19, 21, and 22 are unpatentable under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,797,892 issued to Glaug et al. (hereinafter "Glaug").

ARGUMENTS

Rejection of Claims 19, 21, and 22 under 35 U.S.C. § 102(b) over Glaug

In the Examiner's Answer of December 10, 2007, claims 19, 21, and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Glaug. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (*See MPEP § 2131, citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). There is at least one aspect of the invention defined by claims 19, 21, and 22 not taught or suggested by Glaug.

Independent claim 19 recites a changing aid comprising a mat and at least one effect generating mechanism joined to the mat. Claim 19 also provides that the effect generating mechanism is adapted to transform at least a portion of the an article adapted to be worn externally on a body of a wearer from a first condition to at least one second condition to thereby assist in the application or the removal of the article from the body.

Glaug discloses a toilet training aid 22 attached to the inside of a toilet training pant 24 that is designed to create a noticeable distinct, feeling during urination. (See Col. 4, 18-25). Embodiments of the toilet training aid 22 provide either alone or in combination, a temperature change, a retention of moisture, or a dimensional change upon contact with an aqueous solution such as urine. (See Col. 4, 25-30). With reference to Figures 2 and 3, Glaug describes one embodiment of the toilet training aid 22 in the form of a pad 50. (See Col. 5, ll. 25-39). For clarity, Figures 2 and 3 of Glaug are reproduced below.

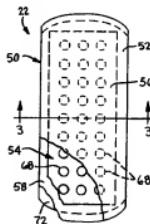


FIG. 2

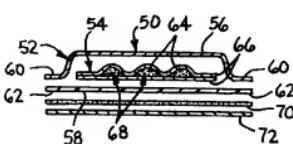


FIG. 3

Appl. No. 09/778,687

Docket No. 8415

Reply Brief dated February 8, 2008

Reply to Examiner's Answer mailed on December 10, 2007

Customer No. 27752

With reference to Figures 2 and 3, Glaug discloses that the pad 50 includes a casing 52 and a temperature change member 54, which may include a temperature change substance 64. (See Col. 5, ll. 10-37 and Col. 8, ll. 51-64). The casing includes a wet sensation layer 56 and a support layer 58. (See Col. 5, ll. 10-37). Glaug also provides that the periphery 60 of the wet sensation layer 56 may be bonded to the periphery 62 of the support layer 58. (See Col. 5, ll. 10-37).

The Examiner's Answer characterizes the temperature change substance 64 of Glaug as the effect generating mechanism of claim 19. As disclosed in Glaug, the temperature change substance 64 comprises a material which provides a temperature change when placed near the wearer and contacted with urine. (See Col. 8, ll. 36-50). However, it is respectfully submitted that the temperature change substance 64 of Glaug does not assist in the removal of the diaper, as required by the effect generating mechanism of claim 1. (emphasis added). In other words, the temperature change substance 64 does not effect how a diaper is removed from a wearer. Instead, the temperature change substance 64 of Glaug merely provides a signal to the wearer that urination has occurred. Although the temperature change substance 64 of Glaug may have an effect as to when a wearer may desire to have a diaper removed, the temperature change substance 64 does not "assist in the removal" of a diaper. (emphasis added). Therefore, Glaug does not teach or suggest the effect generating mechanism recited in claim 1.

It is respectfully submitted that, for at least the reasons discussed above, Glaug does not disclose or suggest all the elements of claim 19. As such, it is believed that claim 19 is patentable under 35 U.S.C. § 102(b) over Glaug. Claims 21 and 22 depend from and include all the limitations of claim 19. Thus, for at least the same reasons discussed above with reference to claim 19, claims 21 and 22 are patentable under 35 U.S.C. § 102(b) over Glaug.

Therefore, it is believed that claims 19, 21, and 22 are in form for allowance and such indication is respectfully requested.

Appl. No. 09/778,687
Docket No. 8415
Reply Brief dated February 8, 2008
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Customer No. 27752

SUMMARY

In view of the remarks above, it is respectfully requested that the Honorable Board of Patent Appeals and Interferences reverse the rejections of claims 19, 21, and 22.

Respectfully submitted,
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Customer No. 27752

(Appeal Brief.doc)
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